

services on a particular route should provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to § 63.10.

[62 FR 64754, Dec. 9, 1997]

§ 63.14 Prohibition on agreeing to accept special concessions.

(a) Any carrier authorized to provide international communications service under this part shall be prohibited from agreeing to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market, as described in paragraph (c) of this section, and from agreeing to accept special concessions in the future. For purposes of this section, "foreign carrier" is defined in § 63.18(h)(1)(ii).

(b) For purposes of this section and §§ 63.11(c)(2)(ii) and 63.18(i), a special concession is defined as an exclusive arrangement involving services, facilities, or functions on the foreign end of a U.S. international route that are necessary for the provision of basic telecommunications services where the arrangement is not offered to similarly situated U.S.-licensed carriers and involves:

(1) Operating agreements for the provision of basic services;

(2) Distribution arrangements or interconnection arrangements, including pricing, technical specifications, functional capabilities, or other quality and operational characteristics, such as provisioning and maintenance times; or

(3) Any information, prior to public disclosure, about a foreign carrier's basic network services that affects either the provision of basic or enhanced services or interconnection to the foreign country's domestic network by U.S. carriers or their U.S. customers.

(c) A U.S. carrier that seeks to enter a special concession with a foreign carrier bears the burden of submitting information, as part of the requirement to file the agreement with the Commission pursuant to § 43.51, sufficient to demonstrate that the foreign carrier

lacks sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market. If the U.S. carrier makes a showing that the foreign carrier lacks 50 percent market share in the international transport and the local access markets on the foreign end of the route, the U.S. carrier will presumptively be allowed to agree to accept the special concession.

(d) Any party that seeks to defeat the presumption in paragraph (c) of this section shall bear the burden of proof upon any issue it raises as to the ability of the foreign carrier to affect competition adversely in the U.S. market.

[62 FR 64754, Dec. 9, 1997]

§ 63.15 Special procedures for international service providers.

(a) Any party seeking to construct, acquire or operate lines in any new major common carrier facility project or non-U.S. licensed satellite or cable system for the provision of international common carrier services shall file an application pursuant to § 63.18(e)(6). If a carrier has global Section 214 authority pursuant to the provisions of § 63.18(e)(1), and the carrier desires to use non-U.S. licensed facilities pursuant to the provisions of § 63.18(e)(1)(ii)(B), this filing requirement does not apply.

(b) Any non-dominant party certified to provide international resold private lines to a particular geographic market shall report its circuit additions on an annual basis. Circuit additions should indicate the specific services provided (*e.g.*, IMTS or private line) and the country served. This report shall be filed on a consolidated basis not later than March 31 for the preceding calendar year.

[50 FR 48203, Nov. 22, 1985; 51 FR 2708, Jan. 21, 1986. Redesignated at 57 FR 57966, Dec. 8, 1992, as amended at 60 FR 51368, Oct. 2, 1995; 61 FR 15728, Apr. 9, 1996]

§ 63.17 Special provisions for U.S. international common carriers.

(a) Unless otherwise prohibited by the terms of its Section 214 certificate, a U.S. common carrier authorized under this part to provide international private line service, whether

as a reseller or facilities-based carrier, may interconnect its authorized private lines to the public switched network on behalf of an end user customer for the end user customer's own use.

(b) Except as provided in paragraph (b)(4) of this section, a U.S. common carrier, whether a reseller or facilities-based carrier, may engage in "switched hubbing" to countries for which the Commission has not authorized the provision of switched basic services over private lines provided the carrier complies with the following conditions:

(1) U.S.-outbound switched traffic shall be routed over the carrier's authorized U.S. international private lines to a country for which the Commission has authorized the provision of switched services over private lines (i.e., the "hub" country), and then forwarded to the third country only by taking at published rates and reselling the international message telephone service (IMTS) of a carrier in the hub country;

(2) U.S.-inbound switched traffic shall be carried to a country for which the Commission has authorized the provision of switched services over private lines (i.e., the "hub" country) as part of the IMTS traffic flow from a third country and then terminated in the United States over U.S. international private lines from the hub country;

(3) U.S. common carriers that route U.S.-billed traffic via switched hubbing shall tariff their service on a "through" basis between the United States and the ultimate point of origin or termination;

(4) No U.S. common carrier may engage in switched hubbing to or from a third country where it has an affiliation with a foreign carrier unless and until it has received authority to serve that country under § 63.18(e)(1), (e)(2), or (e)(6).

[60 FR 67339, Dec. 29, 1995, as amended at 61 FR 15728, Apr. 9, 1996; 63 FR 64754, Dec. 9, 1997]

§ 63.18 Contents of applications for international common carriers.

Except as otherwise provided in this part, any party seeking authority pursuant to Section 214 of the Communications Act of 1934, as amended, to con-

struct a new line, or acquire or operate any line, or engage in transmission over or by means of such additional line for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point shall request such authority by formal application which shall be accompanied by a statement showing how the grant of the application will serve the public interest, convenience, and necessity. Such statement shall consist of the following information, as applicable:

(a) The name, address, and telephone number of each applicant;

(b) The Government, State, or Territory under the laws of which each corporate or partnership applicant is organized;

(c) The name, title, post office address, and telephone number of the officer and any other contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed;

(d) A statement as to whether the applicant has previously received authority under Section 214 of the Act and, if so, a general description of the categories of facilities and services authorized (i.e., authorized to provide international switched services on a facilities basis);

(e) One or more of the following statements, as pertinent:

(1) If applying for authority to acquire interests in facilities previously authorized by the Commission in order to provide international basic switched, private line, data, television and business services to all international points, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a facilities-based carrier pursuant to the terms and conditions of paragraph (e)(1) of this section.

(ii) Comply with the following terms and conditions:

(A) Authority to provide services to all international points under this part extends to those countries for which the applicant qualifies for non-dominant regulation as set forth in § 63.10, except in the following circumstance: If an applicant is affiliated with a foreign carrier in a destination market